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11 FEDERAL TRADE COMMISSION

12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**

14
15 **FEDERAL TRADE COMMISSION,**

16 Plaintiff,

17 v.

18 **SEED CONSULTING, LLC**, also doing
19 business as **SEED CAPITAL** and
20 **FOUNDATION FUNDING**, a Nevada
21 limited liability company,

22 **CREDIT NAVIGATOR, LLC**, a Nevada
23 limited liability company,

24 **ERIK GANTZ**, individually, and as a
25 principal and owner of **SEED**
26 **CONSULTING, LLC** and **CREDIT**
27 **NAVIGATOR, LLC**, and

28 Case No. 2:21-cv-154

**COMPLAINT FOR
PERMANENT INJUNCTION
AND MONETARY JUDGMENT**

1 **RANDY LANG**, individually,

2 Defendants.

3

4 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

5 1. The FTC brings this action under Sections 13(b) and 19 of the Federal
6 Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, Section 6(b) of
7 the Telemarketing and Consumer Fraud and Abuse Prevention Act
8 (“Telemarketing Act”), 15 U.S.C. § 6105, Section 410(b) of the Credit Repair
9 Organizations Act (“CROA”), 15 U.S.C. § 1679h, and Section 2(d) of the
10 Consumer Review Fairness Act of 2016 (“CRFA”), 15 U.S.C. § 45b, to obtain
11 permanent injunctive relief, rescission or reformation of contracts, restitution, the
12 refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief
13 for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15
14 U.S.C. § 45(a), the FTC’s Trade Regulation Rule entitled Telemarketing Sales
15 Rule (“TSR”), 16 C.F.R. Part 310, Section 404 of CROA, 15 U.S.C. § 1679b, and
16 Section 2(c) of CRFA, 15 U.S.C. § 45b.

17 **JURISDICTION AND VENUE**

18 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C.
19 §§ 1331, 1337(a) and 1345.

20 3. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2), (c)(1),
21 and (c)(2), and 15 U.S.C. § 53(b).

22 **SUMMARY OF THE CASE**

23 4. Since at least 2013, Defendants Seed Consulting, LLC, Credit
24 Navigator, LLC, Erik Gantz, and Randy Lang (collectively, “Defendants”) have
25 charged consumers to obtain so-called “funding” to pay for costly trainings offered
26 by a number of third-party companies with whom Defendants partner. These
27 include a number of companies sued by the FTC and other law enforcement
28 agencies for orchestrating major deceptive schemes (the “Training Companies”).

1 The Training Companies sell seminar and coaching packages costing tens of
2 thousands of dollars that purport to teach consumers how to make money by
3 investing in real estate or operating an online business. Defendants' "funding"
4 operation relies on customer referrals from the Training Companies, and the
5 funding they provide is often pitched to consumers as a way for them to obtain
6 capital to grow their nascent businesses or to invest in real estate or securities.

7 5. Defendants are not in fact lenders and do not provide any form of
8 financing themselves. Instead, Defendants charge consumers a fee of \$3,000 or
9 more to submit numerous applications for personal credit cards on behalf of their
10 customers, a process known as "credit card stacking." Defendants generally try to
11 obtain at least \$50,000 in total credit lines with introductory zero-percent interest
12 rates for each of their customers across a half dozen or more credit cards.

13 6. In order to maximize the amount of credit they obtain for consumers,
14 Defendants include income figures in the credit card applications they submit on
15 behalf of their customers that are substantially overstated. They justify this
16 practice on the pretext that the figures purportedly reflect the additional income
17 their customers can anticipate earning in the coming year by utilizing the training
18 provided by the Training Companies. Defendants take other steps to manipulate
19 the underwriting processes of the credit card providers, such as using credit locks
20 to artificially reduce the number of credit inquiries. Defendants' practices result in
21 consumers obtaining numerous credit cards and significantly more credit than the
22 banks would otherwise provide.

23 7. After Defendants obtain numerous credit cards for customers, they
24 routinely tell the Training Companies that the consumers now have funds available
25 to them, often without the consumers' knowledge that the Training Companies are
26 being so informed. This allows the Training Companies to pitch additional costly
27 products or services to the consumers.

8. In the end, most of Defendants' customers do not earn substantial money through the Training Companies' programs and, as a result, they are unable within a reasonable timeframe to pay off the balances from the cost of the trainings on the credit cards obtained by Defendants. Many of Defendants' customers end up mired in debt with their credit scores in ruins. Defendants, on the other hand, have profited considerably from this scheme, having taken in millions of dollars from consumers across the country.

PLAINTIFF

9. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 4158. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces the Telemarketing Act. Pursuant to the Telemarketing Act, the FTC promulgated and enforces the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing acts or practices. The FTC also enforces CROA, 15 U.S.C. §§ 16791679j, which prohibits, *inter alia*, making any statement, or advising any consumer to make any statement, that is untrue or misleading in connection with an application for the extension of credit. The FTC also enforces the CRFA, 15 U.S.C. § 45b, which prohibits, *inter alia*, the offering of provisions in form contracts that restrict individual consumers' ability to communicate reviews, performance assessments, and similar analyses about a seller's products, services, or conduct.

10. The FTC is authorized to initiate federal district court proceedings by its own attorneys, to enjoin violations of the FTC Act, the Telemarketing Act, CROA, and the CRFA, and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 57b, and 1679h(b).

DEFENDANTS

11. Defendant **Seed Consulting, LLC** (“Seed”), also doing business as Seed Capital and Foundation Funding, is a Nevada limited liability company with its principal place of business at 1707 Village Center Circle, Suite 200, Las Vegas, NV 89134. Seed transacts or has transacted business in this District and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Seed has advertised, marketed, or sold its credit card funding service to consumers throughout the United States. In addition, at times material to this Complaint, Seed has been the 25% owner of WCAP Business Services, LLC, also doing business as WCAP Financial (“WCAP”), which has engaged in marketing and lead generation services for Seed.

12. Defendant **Credit Navigator, LLC** (“Credit Navigator”) is a Nevada limited liability company with its principal place of business at 1707 Village Center Circle, Suite 200, Las Vegas, NV 89134. Credit Navigator transacts or has transacted business in this District and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Credit Navigator has advertised, marketed, or sold its service for obtaining consumers’ credit reports and credit monitoring to consumers throughout the United States.

13. Seed and Credit Navigator are collectively referred to herein as the “Corporate Defendants.”

14. Defendant **Erik Gantz** (“Gantz”) is the principal owner of the Corporate Defendants and the managing partner of Seed. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants, including the acts and practices set forth in this Complaint. Defendant Gantz resides in this District and, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

15. Defendant **Randy Lang** (“Lang”) is a Utah resident. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants, including the acts and practices set forth in this Complaint. In addition, at times material to this Complaint, Lang has been the 75% owner of WCAP. Defendant Lang, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

COMMON ENTERPRISE

16. The Corporate Defendants are closely held companies that have operated as a common enterprise while engaging in the deceptive acts and practices and other violations of law alleged below. The Corporate Defendants have conducted the business practices described below through interrelated companies that have common ownership, officers, managers, business functions, employees, and office locations. Also, the Corporate Defendants commingle funds and rely on a shared method to identify potential customers. Because these Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Furthermore, Gantz and Lang (collectively, the “Individual Defendants”) have formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants that constitute the common enterprise.

COMMERCE

17. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS ACTIVITIES

A. Seed's Business Practices and Referral Relationships

18. Seed was formed in 2009 in the State of Nevada by defendant Gantz and another individual. Gantz is now the sole owner of Seed.

19. Defendants market Seed's services as obtaining purported "funding" or "financing" for consumers to start or grow a business.

20. Seed's "funding" comes about through a process known as credit card stacking, whereby Seed prepares and submits applications for numerous personal credit cards that typically come with introductory zero-percent interest rates. The credit cards are offered by third-party financial institutions that are unaffiliated with Seed and with whom Seed does not have a business relationship. In its customer contracts, Seed guarantees that it will obtain a specified amount of funding for consumers, often \$50,000. By stacking together the various credit lines on the credit cards it obtains for its customers, Seed purports to satisfy this guarantee. Seed charges its customers a fee of between \$3,000 and \$4,000 for this service and usually collects its fee from one of the new credit cards it obtains for consumers.

21. In its initial three years, many of Seed's customers were individuals seeking funding to open or grow a new location of a national franchise. Since at least 2013, however, Seed has largely worked with customers referred to it by companies that sell training programs on how to purportedly make money through a new business or through investments, including the Training Companies.

22. The Training Companies' programs take a variety of forms, including programs that purport to teach consumers how to generate income by investing in real estate, by selling stocks or options, or through operating an online business, such as on eBay or Amazon. Referrals from providers of training services now generate a majority of Seed's customer base. Only a small percentage of Seed's business now comes from its work with franchisees.

1 23. The trainings and coaching services offered by the Training
2 Companies are expensive, with prices often in the tens of thousands of dollars. In
3 order to induce consumers to pay these amounts, the Training Companies often
4 represent to consumers that they will earn substantial income as a result of the
5 trainings and coaching services, such as several thousand dollars of additional
6 monthly income. In actuality, however, the great majority of consumers who
7 purchase the trainings and coaching services typically do not earn the promised
8 substantial income or even recoup the money they paid to the Training Companies.

9 24. Defendants provided “funding” services in connection with many
10 training and coaching schemes that have been the subject of law enforcement
11 actions, including FTC lawsuits. These enforcement actions have alleged, among
12 other things, that the Training Companies misrepresented that consumers who
13 purchased their trainings and coaching services were likely to earn substantial
14 incomes through online businesses or real estate investments. *See FTC & Utah*
15 *Div. of Consumer Prot. v. Nudge, LLC*, No. 19-cv-00867-RJS (D. Utah) (complaint
16 filed on Nov. 5, 2019) (real estate training scheme); *FTC & Utah Div. of Consumer*
17 *Prot. v. Zurixx, LLC*, No. 19-cv-00713-DAK (D. Utah.) (complaint filed on Sept.
18 30, 2019) (real estate training scheme); *Utah Div. of Consumer Prot. v. Stevens*,
19 Case No. 190907053 (Utah Dist. Ct.) (complaint filed on Sept. 6, 2019) (real estate
20 training scheme doing business as “Real Estate Workshop”); *FTC v. MOBE Ltd.*,
21 No. 18-cv-00862-RBD (M.D. Fla.) (final order against corporate defendants
22 entered on Apr. 13, 2020) (online business training scheme); *FTC v. Digital*
23 *Altitude LLC*, No. 18-cv-00729-JAK (C.D. Cal.) (final order entered on Mar. 6,
24 2019) (online business training scheme); *FTC & State of Minn. v. Sellers*
25 *Playbook, Inc.*, No. 18-cv-02207-DWF (D. Minn.) (final order entered on Nov. 20,
26 2018) (online business and business opportunity scheme); *FTC v. AWS, LLC*, No.
27 18-cv-00442-JCM (D. Nev.) (final order entered on Jun. 15, 2018) (online business
28 training scheme doing business as “FBA Stores”); *FTC v. Apply Knowledge, LLC*,

1 No. 14-cv-00088-DB (D. Utah) (final order entered on February 16, 2016) (online
2 business coaching scheme doing business as “Coaching Department”).

3 25. During the time period relevant to this Complaint, the two largest
4 sources of customer referrals to Seed were real estate training and coaching
5 schemes Nudge, LLC and its affiliated entities (collectively, “Nudge”) and Zurixx,
6 LLC and its affiliated entities (collectively, “Zurixx”), both of which are based in
7 Utah.

8 26. Nudge and Zurixx have each referred customers to Seed since at least
9 2016. Defendant Lang, who has longstanding ties to the business coaching and
10 training industry, has established the referral arrangements between Seed and most
11 of the Training Companies, including Nudge and Zurixx. In addition, Lang, both
12 individually and through his company WCAP, has provided various marketing and
13 lead generation services to Seed. In exchange, Seed has paid WCAP, which is
14 75% owned by Lang, a share of all of the customer sales WCAP generates. Once
15 the referral arrangements with the Training Companies have been established,
16 Defendant Gantz generally handles the ongoing management of Seed’s
17 relationships with these companies. Gantz regularly communicates with the
18 Training Companies and has attended many of their training events, including
19 numerous Nudge seminars.

20 27. Between approximately 2010 and 2014, Lang co-owned Daeus
21 Financial (“Daeus”) with Zurixx officers Jeffrey Spangler and Christopher Cannon.
22 Daeus sold various add-on services to consumers referred to it by business
23 coaching and training companies. Since at least 2012, Spangler and Cannon have
24 co-owned Zurixx with a third individual. Through his relationship with Zurixx’s
25 owners, Lang established the referral arrangement between Zurixx and Seed. As a
26 result, at times material to this Complaint, Seed paid a \$750 commission to WCAP
27 for customers referred to Seed by Zurixx.

1 28. Similarly, Lang established the referral arrangement between Nudge
2 and Seed through his relationship with one of Nudge’s owners. As a result, at
3 times material to this Complaint, Seed paid a \$1,000 commission to WCAP for
4 customers referred to Seed by Nudge.

5 29. Lang has also provided Seed with customer service support with
6 respect to consumers who submitted complaints to the company or to government
7 agencies or who complained online, including on websites maintained by the
8 Better Business Bureau (“BBB”). Lang has often used a “seedcapital.com” email
9 address to communicate with these consumers. According to Lang, WCAP
10 formally ceased marketing for Seed in March 2019, but Lang continues to assist
11 Seed with both lead generation and support with respect to consumer complaints in
12 his individual capacity.

13 30. Gantz often asks Lang to handle the most serious customer complaints
14 concerning Seed or the Training Companies, while a Seed customer service
15 representative covers the others. Lang or the Seed representative typically speaks
16 to the consumer complainants to identify their concerns and assess whether they
17 intend to pursue their complaints publicly or with government agencies or BBBs.
18 This information is then conveyed to Gantz along with a refund recommendation,
19 with Gantz responsible for approving any refund offers.

20 31. Numerous consumer complaints received by Defendants state that
21 consumers are unable to profitably implement the Training Companies’ strategies,
22 that the trainings and coaching services themselves are of limited value, that
23 consumers take on substantial debt to pay for the trainings and coaching services,
24 and that their credit scores often plummet as a result of being unable to timely
25 repay these debts.

26 32. Defendants routinely coordinate their responses to these complaints
27 with the Training Companies and, in many instances, have attempted to suppress
28 consumer criticisms of their business practices and their relationships with the

1 Training Companies. Defendants have frequently tried to convince consumers to
2 withdraw public complaints and reviews, including consumers' online submissions
3 to the BBB. In addition, Defendants have attempted to prevent consumers from
4 publicizing their experiences or cooperating with government entities by using
5 refund agreements with consumers that contain a "Non-Disparagement" provision.
6 This clause in Defendants' form agreement purports to prevent consumers from
7 making verbal or written statements "that might reasonably be construed to be
8 derogatory or critical of, or negative toward" Defendants.

9 33. Consumer complaints received by Defendants about the Training
10 Companies include the following:

- 12 • In April 2017, Gantz authorized a refund for a consumer who told a Seed
13 representative that "she quickly became aware that the service" she
14 purchased from FBA Stores, a Training Company that purported to show
15 consumers how to make money by selling on Amazon, "was essentially
16 useless and that there was no way" her new business would generate
17 enough sales to pay off her credit card debt. The Seed representative
18 described the consumer as "intelligent" and "likely a serious career
19 professional," who also complained that FBA Stores was a "scam" that
20 "use[s] your company [Seed] to[] secure funds so that they can be paid." Lang
quickly reported to FBA Stores that this was "a 911" situation
involving a consumer who had reached out to "government agencies,"
adding that Seed was giving a full refund and advising that FBA Stores
should do the same.
- 22 • In February 2017, Lang and Gantz learned about a complaint by a Nudge
23 consumer who had a "very debilitating" case of multiple sclerosis that
24 prevented him from walking very far and continuing to do his job.
25 Before he enrolled in the training program, the consumer explained to
26 Nudge that he has "many limitations," but Nudge employees assured him
27 that "he could do it and it would all be ok." Contrary to these promises,
28 the consumer told Seed customer service representatives that he was
"unable" to use the Nudge training, that the real estate program "wasn't
being very helpful," and that Nudge representatives "weren't hearing me
every time I explained my disability issues." After the consumer learned

1 that he could not use the credit cards he obtained through Seed to invest
2 in real estate at a Nudge event, the consumer said he would use the
3 internet to “expose” Nudge because “it wasn’t fair what they did to us.”
4 In his report to Gantz and Lang, a Seed representative commented that, if
5 true, “it appears to me to be a classic Bait & Switch plus a whole bunch
6 o’nother things that ain’t good.” When Gantz was informed of the
7 complaint, he warned Lang and others, “We need to head this off.”

8

- 9 • In December 2017, a Seed customer service representative emailed Gantz
10 and Lang about a consumer who “said that every bit of his Seed [\$]78k
11 has been used to pay Response [a Nudge affiliate] for all the various
12 programs they told him he needed.” The consumer complained that “he
13 has been working very hard to complete RE [real estate] deals but that
14 basically Response isn’t doing anything for him” and added that “he
15 considers their website to be a joke and so he sees no reason to try and
16 use it anymore, with Zillow and Redfin, etc. being a lot more useful.”
17 Gantz forwarded this email to a Nudge employee to ensure that the
18 consumer was “on your radar.”
- 19 • In February 2018, a Nudge representative contacted Gantz about a
20 consumer complaint to a government agency for which Nudge was
21 providing a refund and “recommend[ed]” that Seed do the same. In his
22 complaint, the consumer alleged that “absolutely nothing was learned” at
23 a Nudge training event; instead there were “teases” about “what could be
24 taught” if he purchased another training package. According to the
25 consumer, after he purchased the additional package, he was taught
26 strategies like putting up public signs offering to sell “moldy” homes
27 without actually having any such homes to sell. The consumer alleged
28 that this tactic was both “deceitful” and “100% illegal” in his home state
without a real estate license.
- 29 • In May 2018, a customer emailed a Seed representative complaining that
30 he had “followed ever[y]thing my MOBE business partners have told me
31 in everyway [sic] . . . but [I] have not made any money,” that “I have paid
32 out to the cards almost all my savings” and “[I] have sold ever[y]thing of
33 value [I] own and [I’m] almost financially ruined.” The consumer
34 recounted that MOBE, a Training Company that purported to teach
35 consumers how to start an online business, had previously “assur[ed] me
36 there would be plenty of sales and it would be easy to pay back the cards.”

1 . . . not so.” Gantz forwarded this email to his contacts at MOBE with a
 2 simple “Pls see below.”
 3

4

- 5 • In January 2019, Lang authorized a refund for a consumer who had taken
 6 training through Sellers Playbook, another Training Company that
 7 purported to teach consumers how to make money selling on Amazon.
 8 The consumer agreed to withdraw an online BBB complaint that alleged
 9 that WCAP, which enrolled many of Seed’s customers, “can definitely
 10 help get you money, but they leave you with a hot credit card mess that
 11 may devastate you, and then refuse to return your calls. . . . Just don’t do
 12 it!!!! They affiliate with business scammers!!!!!!”
 13
- 14 • In February 2019, Gantz agreed to a refund and settlement with a Zurixx
 15 customer to “[e]nsure we [Seed] are left out” of future complaints. In
 16 requesting the refund, the consumer had told Seed that “[e]verything
 17 [Zurixx] promised us turned out to be a lie” and that “[t]his is not a legit
 18 company” while noting that she took out a home equity loan to help pay
 19 down over \$50,000 in credit card charges that had “destroyed” her credit.
 20

21 34. Through consumer complaints such as these, as well as their
 22 coordination with the Training Companies to respond to these complaints,
 23 Defendants have repeatedly been made aware of the deceptive practices of the
 24 Training Companies. Despite this knowledge, Defendants have continued to work
 25 with Training Companies because of the lucrative referrals they generate.
 26 Thousands of consumers referred by the Training Companies have become Seed’s
 27 customers.
 28

29 35. For example, between April 2017 and November 2019, consumers
 30 referred by Nudge and Zurixx paid Seed more than \$10 million in fees. Gantz and
 31 Lang, in turn, received substantial distributions of these revenues through closely
 32 held companies that they control.
 33

34 36. The arrangement has also been a financial boon to the Training
 35 Companies. Seed’s services have resulted in its customers having increased credit
 36 available to them, thereby enabling the Training Companies to deceptively sell
 37 additional, costly training and coaching programs to consumers. For example,
 38

1 Seed obtained more than \$230 million in available credit card lines for the 3,840
2 consumers that were referred to the company by Nudge between February 2016
3 and May 2018. Moreover, Seed has paid many of the Training Companies a
4 commission for their referrals, including at least \$250,000 paid to Nudge.

5 **B. The Marketing of Seed's Credit Card Stacking Services**

6 37. Defendants rely extensively upon the Training Companies to market
7 Seed's services. Many of Seed's customers first learn about the company when it
8 is pitched at seminars held by one of the Training Companies. Seed has provided
9 training to Training Companies' salespeople on how to promote Seed's services to
10 consumers.

11 38. In the case of Nudge and Zurixx, Seed's services are typically first
12 marketed to consumers at "Workshops" by the Training Companies' presenters
13 from the front of the seminar room. Workshops are the second stage in the
14 companies' seminar sales cycle. This sales cycle begins with free "Preview
15 Events" that largely serve to market the three-day Workshops, which typically cost
16 at least \$1,000. The Workshops, in turn, market additional, more expensive
17 "Advanced Trainings" that typically cost tens of thousands of dollars. Given the
18 substantial cost of the Advanced Trainings, Nudge and Zurixx often promote Seed
19 to consumers at the Workshops as a source of additional capital.

20 39. Even after consumers purchase one of the Advanced Training
21 packages, some of the Training Companies, including Nudge and Zurixx, attempt
22 to sell additional products and services to their customers, including purported
23 personalized coaching programs ("Coaching Programs") that often cost tens of
24 thousands of dollars more. The Training Companies use outbound telemarketing
25 to sell the Coaching Programs to consumers. The funding Seed obtains for
26 consumers is often used by consumers to purchase the Training Companies'
27 Advanced Trainings and Coaching Programs.

1 40. At the Workshops, the presenters often describe Seed's financing as a
2 tool to provide consumers with capital to use to purchase real estate properties and
3 grow their real estate businesses. They market Seed this way even though the
4 primary reason the Training Companies partner with Seed is so that consumers
5 have access to credit to pay for their trainings and coaching services. To lend
6 credibility to Seed, the Training Companies' presenters frequently tout Seed's prior
7 work with individual franchisees, even though most of Seed's business now comes
8 through training providers.

9 41. Often, the Training Companies' presenters do not explain that Seed
10 does not itself provide any funding to consumers, but rather only submits
11 numerous credit card applications to third-party financial institutions on behalf of
12 its customers in exchange for a fee. Many presenters only vaguely indicate that the
13 "funding" comes with a zero-percent interest rate for a period of time.

14 42. For example, at a July 19, 2019 Workshop, a Zurixx seminar presenter
15 described Seed (operating under the name "Foundation Funding") as offering
16 "unsecured loans" or "cash lines of credit" for consumers to use to invest in real
17 estate:

18 Now, the company -- because we have thousands of successful
19 investors doing lots of deals -- has made a special relationship with us.
20 You cannot go out and find this on your own. The company spent a
21 lot of time and money doing this. The company, called Foundation
22 Funding, has done over a billion dollars of entrepreneurial investing
23 lending. . . . And they, again, are making a lot of money. The interest
24 rate is introductory for a year, zero. They make a lot of money doing
25 that. They've helped franchises and other businesses like 7-Eleven,
26 FedEx, Subway, Coldstone, Nike. These are the top businesses in
27 America and they fund us. Why do they fund us? Because they know
28 our students are better trained doing good deals. Correct? And
they've offered this special opportunity. So they will help you with
your real estate business. Right? They're A-plus rated and it's zero
percent financing up to \$150,000 unsecured. . . . These are unsecured

1 loans. . . . Now, you get \$10,000 to \$100,000 in cash lines of credit at
2 zero interest.

3 43. Many of Seed's customers understand from statements like these that
4 Seed would provide them capital directly, either through a loan or line of credit.
5 These consumers do not understand that Seed merely sends out numerous
6 applications for personal credit cards that come with teaser introductory rates and
7 charges a fee of \$3,000 or more for this service.

8 44. Many consumers would not have purchased Seed's services if they
9 understood that the purported "funding" comes in the form of multiple personal
10 credit cards. Among other reasons, the post-introductory period interest rates on
11 these credit cards typically are relatively high compared to other forms of credit,
12 often exceeding 15%. In addition, many consumers purchase the funding with the
13 goal of using the capital to purchase real estate properties. In order to use a credit
14 card to purchase real estate, consumers usually must take a cash advance on their
15 credit card. Cash advances often entail substantial fees, as well as higher rates of
16 interest compared to the typical interest rates for consumer credit cards.

17 45. Although Seed's employees often do not attend the trainings,
18 Defendants know that the Training Companies routinely promote Seed's services
19 in an inaccurate manner. On numerous occasions, Defendants have failed to
20 correct the Training Companies' misrepresentations prior to the time consumers
21 decide to purchase Defendants' services. Defendants have the authority to require
22 that Seed's services be correctly described by the Training Companies, but have
23 failed to do so.

24 46. For example, in an internal email from March 2018, a Seed customer
25 service representative wrote to Defendants Gantz and Lang, among others, that
26 "[a]t these [training] events they generally do a pretty slick job of selling their
27 students on how they will be working hand in hand with everyone in their network
28 to make sure all the client's needs will be met, while also going on and on about

1 how everyone involved (including Seed) are cutting edge experts in this and that
 2 and we will all know exactly what they need even before they know they need it
 3 and so on blah blah blah.” The representative added that “[a]nd then you add an 84
 4 year-old to the mix and you just pray there won’t be any problems.”

5 47. Seed’s own website (www.seedcapital.com) (“Seed Website”) is
 6 consistent with how the Training Companies’ presenters describe the company’s
 7 funding. The term “credit cards” does not appear anywhere on the Seed Website;
 8 instead, the website only vaguely mentions that Seed has raised over “\$1.7 billion”
 9 through “cash credit lines”:

10 OVER \$1.7 BILLION RAISED SINCE 2008.

12 Funding a startup is one of the most difficult challenges any entrepreneur will face. Having personally
 13 founded over a dozen startups, the Seed Capital executive team understands just how difficult it is to
 14 secure funding and turn an idea into reality.

15 Seed Capital’s mission is to assist entrepreneurs in financing their start-ups through innovative funding and
 16 credit building techniques. By providing the cash credit lines needed to launch a business our clients
 17 benefit from our team’s vast knowledge and experience, and our policies have been created to ensure that
 18 the motivations of our clients and our firm are clearly aligned.

18 C. Defendants’ Qualification and Enrollment Process

19 48. After promoting Seed’s services, the Workshop presenters encourage
 20 consumers to find out whether they qualify for funding through Seed during a
 21 break in the Workshops. Consumers who qualify are then encouraged to enroll
 22 with Seed onsite during the Workshops. At the same time, many of these
 23 consumers also sign up for expensive Advanced Training packages that were
 24 pitched by the Training Companies during the Workshops through deceptive
 25 claims that they could earn substantial sums of money. The Advanced Training
 26 packages typically range in cost from approximately \$20,000 to as much as
 27 \$45,000.

1 49. Presenters at the Workshops instruct consumers to enter their personal
2 information on a website called CreditNav to determine if they qualify for funding
3 through Seed. CreditNav is owned and operated by Defendant Credit Navigator.

4 50. CreditNav pulls credit reports from the three major credit bureaus
5 (Equifax, Experian, and TransUnion) for consumers and determines whether they
6 qualify for Seed's services. In order to qualify, a consumer typically must have a
7 credit score that is at least in the high 600s, signifying good credit, but Seed has
8 enrolled consumers with lower credit scores in some circumstances. CreditNav
9 sorts applicants into three groups: (1) those who qualify "as is;" (2) those who will
10 qualify if their credit profile is "fixed" in certain ways; and (3) those who do not
11 qualify.

12 51. Defendants refer to consumers in the second group, "if fixed," as
13 "contingent file" consumers. At the Workshops, presenters often tell consumers
14 that Seed can help fix any issues in their credit reports so that they will be able to
15 proceed with Seed's funding.

16 52. For example, at a July 19, 2019 Workshop, a Zurixx speaker
17 encouraged consumers to sign up with CreditNav as follows:

18 There's more money -- more deals than money. So there's no risk in
19 applying. They'll also -- if there's -- by the way, about 20 percent of
20 you they'll say, hey, there's a mistake on your stuff; let's fix it or let
21 me help you fix it. Got it? And that's what happened to me. There
was a mistake on mine and they fixed it for me.

22 53. The CreditNav reports for contingent file consumers include an "If
23 Fixed" section that describes how the consumers' credit reports will need to be
24 improved in order to qualify for Seed's service. Based on the CreditNav reports,
25 Defendants work with consumers on the items identified in the "If Fixed" section
26 of the reports, sometimes with the help of representatives of the Training
27 Companies. Defendants assist consumers in disputing and removing negative
28 items, such as collections or tax liens, and paying down existing credit card

1 balances so that the consumers are not utilizing more than 45% of their existing
2 credit card lines. The CreditNav report provides the precise dollar amount that
3 consumers need to pay down to get below this threshold. In many cases, Seed
4 itself interacts with the credit bureaus in order to improve consumers' credit
5 profiles and submits the relevant documentation, such as the proof of a new credit
6 card balance, directly to the bureaus.

7 54. During the process of fixing consumers' credit profiles, Seed regularly
8 monitors consumers' credit profiles with the three credit bureaus through
9 CreditNav. If the bureaus accept the information provided by Seed and update the
10 consumer's credit record, Seed then begins the credit card application process on
11 behalf of the customer. As explained below, however, any improvements in
12 consumers' credit profiles are often temporary. By the conclusion of the
13 application process, many consumers have suffered a significant decline in their
14 credit scores.

15 55. At the time of enrollment, Seed's customers sign a "Business
16 Consulting Services Agreement" (the "Consulting Agreement") that sets forth the
17 terms of Seed's service. The Consulting Agreement defines Seed as the
18 customer's "Consultant" and provides that "Consultant" will provide "consulting
19 services and assistance related to establishing financial and credit accounts of [sic]
20 behalf of Client and Client's business." The standard form Consulting Agreement
21 does not mention the Training Companies, and they are not a party to the contract.

22 56. Under the Consulting Agreement, Seed's initial fee becomes due
23 when Seed helps a consumer obtain credit cards with total available credit lines in
24 excess of the "capital acquisition performance guarantee" ("CAPG") specified in
25 the contract. The CAPG is typically \$50,000, but in some cases the threshold is
26 \$25,000. Depending on the referral source, Seed's fee is between \$3,000 and
27 \$4,000, regardless of the CAPG. Seed typically collects its fee by charging one of
28 the new credit cards it obtains for its customers.

1 57. An attachment to the Consulting Agreement discloses certain
2 “highlights” of Seed’s program, including that “[f]unding comes in the form of
3 unsecured credit cards,” “[t]he funding total will be achieved across multiple credit
4 lines; 6-8 on average,” the “[l]ines of credit will be 0% on average, for the first 12-
5 18 months,” and the “fully indexed interest rate, after the 0% period, will be
6 between 8-15%, based on a student’s exact credit profile.” In numerous instances,
7 the highlights document is the first time it is revealed to consumers that Seed’s
8 “funding” comes in the form of multiple personal credit cards. The document is at
9 odds with the prior statements by the Training Companies’ presenters and the
10 language on the Seed Website that leads many consumers to understand that Seed
11 would be providing a loan or line of credit to consumers, rather than merely
12 submitting personal credit card applications.

13 **D. Seed Causes Credit Card Applications Containing Inflated
14 Income Figures to Be Submitted to Credit Issuers**

15 58. Within a few days of enrolling a new customer, a Seed representative
16 typically calls the customer to discuss Seed’s process. This call is commonly the
17 first contact between the customer and a Seed employee. Up to this point, the
18 customer typically engages only with representatives of the Training Companies
19 about Seed’s funding.

20 59. Among other things, on the call, the Seed representative often
21 discusses the income figure that Seed will list in the credit card applications it
22 submits on behalf of its customers. The applications do not mention the name of a
23 business or any business purpose and therefore are treated by the issuers as
24 applications for personal credit from consumers. The issuers require such
25 applications to include income figures in order to comply with legal requirements
26 that they consider a consumer’s ability to pay in connection with an application for
27 personal credit.

1 60. Specifically, Regulation Z, 12 C.F.R. Part 1026, implements the Truth
2 in Lending Act (“TILA”), 15 U.S.C. § 1601 *et seq.* Regulation Z requires credit
3 issuers to consider a consumer’s ability to pay before opening a new personal
4 credit card account or increasing the credit limit on an already-existing account.
5 12 C.F.R. § 1026.51. In making this determination, the issuer must consider “the
6 consumer’s ability to make the required minimum periodic payments under the
7 terms of the account based on the consumer’s income or assets and the consumer’s
8 current obligations.” *Id.*

9 61. Regulation Z further requires that card issuers maintain reasonable
10 policies and procedures to consider the consumer’s ability to pay, including
11 “treating any income and assets to which the consumer has a reasonable
12 expectation of access as the consumer’s income or assets, or limiting consideration
13 of the consumer’s income or assets to the consumer’s independent income and
14 assets.” *Id.*

15 62. In its official commentary on Regulation Z, the Consumer Financial
16 Protection Bureau states that when card issuers assess a consumer’s income in
17 making an ability to pay determination, the issuers “may consider any current or
18 reasonably expected income” of the consumer. 12 C.F.R. § 1026.51(a)(1)(i), cmt.
19 4i, Supp. 1. The commentary further explains that “[c]urrent or reasonably
20 expected income includes, for example, current or expected salary, wages, bonus
21 pay, tips, and commissions.” *Id.* at 12 C.F.R. § 1026.51(a)(1)(i), cmt. 4ii, Supp. 1.
22 As a result, some card issuers define income in their credit card applications to
23 include amounts that consumers “reasonably expect” to earn.

24 63. Other card issuers do not incorporate the concept of reasonably
25 expected earnings into the definition or examples of income that appear in their
26 credit card applications. Nonetheless, Seed has obtained approvals for applications
27 submitted to these issuers that incorporate projected income in the income figures
28 listed in the applications. Seed submits its credit card applications on a “stated

1 income" basis, without providing any support for the income figures. The
2 applications do not distinguish consumers' current incomes from any projected
3 income.

4 64. In numerous instances, Seed's employees have represented to Seed's
5 customers that they can expect to earn substantial additional income through the
6 programs provided by the Training Companies and that this additional, projected
7 income should be included in the credit card applications.

8 65. In many cases, Seed's representatives suggest to consumers that they
9 should reasonably expect to earn an additional \$100,000 or more of income in the
10 next year. As a result, the credit card applications that Seed prepares and submits
11 on behalf of consumers routinely include income figures that exceed consumers'
12 current annual income by \$100,000 or more.

13 66. Defendants do not have a reasonable basis to include, or to encourage
14 consumers to include, substantial projected income amounts in the income figures
15 listed in consumers' credit card applications. To the contrary, most consumers
16 referred to Seed do not earn substantial additional income by implementing the
17 Training Companies' programs. Indeed, the majority of Seed's customers do not
18 even recoup the cost of the programs they purchased from the Training Companies.

19 67. During their calls with consumers, Seed representatives often
20 complete an "Ability to Repay/Income Calculation Worksheet" ("Income
21 Worksheet"). Seed uses the Income Worksheets to record the income that Seed
22 will list in the credit card applications it submits.

23 68. Until at least February 2018, the Income Worksheets that Seed used
24 with all of its customers listed three categories of consumers' purported income:
25 "Current Income," "Anticipated/Projected Income," and "Income of others in
26 which you have Reasonable Access." The Income Worksheets define
27 "Anticipated/Projected Income" as "[a]ny income that is reasonably expected to be
28 earned over the next 12 months," including "income from a new business,

1 investments (properties or otherwise), new or additional employment, settlement,
2 etc.” Seed representatives total the amounts listed in each of these three income
3 categories and list the cumulative figure as the consumer’s income in the credit
4 card applications they submit.

5 69. In a sample of 317 Income Worksheets completed by a Seed
6 representative for Nudge customers, nearly half (140 out of the 317) of the
7 worksheets indicated that the consumers had a current income of \$50,000 or less.
8 Conversely, nearly two-thirds (185 out of the 317) of the worksheets indicated that
9 the consumers had an additional projected income of at least \$100,000. Notably,
10 105 of these worksheets listed a projected income of exactly \$100,000.

11 70. In February 2018, at Nudge’s request, Seed modified the Income
12 Worksheet it used with Nudge-referred customers to delete the reference to
13 “Anticipated/Projected Income.” Nonetheless, Seed continues to include figures
14 that incorporate substantial projected income amounts in the credit card
15 applications it submits on behalf of its customers. Seed does not have a reasonable
16 basis to include substantial projected income in the applications it submits.

17 71. Seed’s listing of inflated incomes in the credit card applications it
18 submits on behalf of its customers interferes with credit issuers’ capacity to
19 accurately perform their consumer ability to pay analysis. Through this conduct,
20 Seed causes issuers to extend credit to consumers under false pretenses and the
21 conduct results in the company obtaining more credit for its customers than it
22 would otherwise obtain absent this income inflation.

23 **E. Seed Further Undermines the Credit Issuers’ Underwriting
24 Processes**

25 72. After the initial customer call, Seed employees submit numerous
26 credit card applications to third-party financial institutions seeking personal credit
27 cards on behalf of its customers. Seed does not have a special relationship with
28

1 these financial institutions, and the credit cards it helps obtain are widely available
2 to the general public.

3 73. The credit card applications do not disclose that Seed, and not the
4 consumer, prepared and submitted the applications. Most of the applications are
5 submitted online and Seed either creates, or directs its customers to create, a new
6 email account that Seed includes in the applications. Seed requires its customers to
7 provide Seed access to this email account so that the company may monitor the
8 status of the applications without the issuers becoming aware of Seed's
9 involvement in the application process.

10 74. A smaller number of credit card applications are submitted by phone.
11 In an August 2017 email to a new customer, a Seed representative explained
12 "Phone application – We will do your phone applications for you." Seed directs its
13 customers not to mention that they are working with a third party if a credit issuer
14 contacts the customer about a credit card application.

15 75. Seed submits the credit card applications in a manner that is designed
16 to subvert the normal underwriting processes of the credit issuers. Defendant
17 Gantz is the individual primarily responsible for the development of Seed's credit
18 card application process.

19 76. In ordinary circumstances, consumers receive a "hard inquiry" on
20 their credit reports every time they submit a credit card application. Hard inquiries
21 occur when a bank or other financial institution checks a consumer's credit in
22 connection with making a lending decision. "Soft inquiries" occur when a
23 consumer checks his or her own credit or when credit card companies preapprove
24 potential customers for credit card offers. Unlike soft inquiries, hard inquiries
25 appear on consumers' credit reports and impact their credit scores.

26 77. Credit issuers' underwriting algorithms identify when consumers have
27 a significant number of hard inquiries on their credit reports within a short period of
28 time. When that occurs, the issuer may either deny the credit application or require

1 additional information from the consumer. This is because numerous credit
2 inquiries may signal that a consumer is experiencing financial distress or plans to
3 overspend.

4 78. Seed uses several tactics to undermine the issuers' underwriting
5 processes. For example, Seed has employed credit locks to block the credit
6 issuers' ordinary credit pulls. Credit locks restrict access to consumers' credit
7 reports and are normally used by consumers to prevent identify theft, including the
8 unauthorized opening of new accounts in their names. Seed has used locks to try
9 to force credit issuers to only check a consumer's credit with one credit bureau
10 while the others are locked, thereby reducing the number of hard credit inquiries in
11 connection with an application. This tactic helps hide the fact that Seed applies for
12 numerous credit cards for each consumer and allows the company to obtain
13 additional credit for consumers.

14 79. Seed also compiles information on how quickly credit issuers review
15 their credit card applications and which of the three major credit bureaus (Equifax,
16 Experian, or TransUnion) the issuers use to conduct hard inquiries. Based on this
17 information, Seed times and sequences the submission of its applications to
18 minimize the number of credit inquiries associated with the consumer. As Seed
19 explains in one of its promotional materials:

20 Seed Capital's understanding of each individual bank's underwriting
21 is so in-depth, we even know what bank will pull which credit bureau
22 based on a client's geography. Unlike other companies that take a
23 shotgun and hope approach, Seed Capital employs a highly surgical
24 strategy to bank application submissions, ensuring that inquiries are
25 evenly distributed over all three bureaus. This makes certain that our
26 clients will never be declined for "excessive inquiries" (which is the
most common decline code and is nearly impossible to overturn) and
it guarantees the highest degree of protection to our clients' credit.

27 80. The overall effect of Seed's tactics is to reduce the number of credit
28 inquiries on its customers' accounts and thereby prevent the credit bureaus and

1 credit issuers from obtaining an accurate understanding of consumers' credit
 2 profiles. These actions undermine the issuers' credit underwriting decisions and
 3 cause them to offer credit to consumers that they would not otherwise offer and
 4 that exceeds the consumers' ability to pay.

5 **F. Defendants Disclose Consumers' Private Financial Information to
 6 the Training Companies**

7 81. In the standard form Consulting Agreement, Defendants pledge that
 8 they will not "without the prior written consent" of their client "use or disclose to
 9 any third party any details regarding Client or Client's business" and that they will
 10 not use the client's confidential information "other than solely for the benefit of
 11 Client":

12 **11. CONFIDENTIAL INFORMATION.** Consultant acknowledges that it may receive statutorily confidential personal information during
 13 the performance of the Services. Consultant agrees that such information is of a highly confidential nature, and that, unless
 14 Consultant has the prior written approval of Client, both during and after the Term of this Agreement, Consultant shall not, without
 15 the prior written consent of Client: (i) use or disclose to any third party any details regarding Client or Client's business, including,
 16 without limitation any information regarding any of the Client's customer information, business plans, or price points (the
 17 ***Confidential Information***), (ii) make copies of any Confidential Information or any content based on the concepts contained within
 18 the Confidential Information for personal use or for distribution, or (iii) use the Confidential Information other than solely for the
 19 benefit of Client; except that Consultant may disclose Confidential Information to persons who may be designated to work with
 Consultant in order to provide the Services.

20 82. Despite these guarantees, Defendants routinely disclose consumers'
 21 private financial information to the Training Companies without consumers'
 22 knowledge or consent.

23 83. For example, Defendants regularly notify the Training Companies
 24 when their customers have obtained new credit cards – and even the specific cards
 25 and amounts they have obtained – so that the companies may pitch additional
 26 coaching or training programs for which the consumers have not previously
 27 enrolled. This information allows the Training Companies to target consumers
 28 who have available credit and to determine what level (*i.e.*, cost) of programs to
 pitch to those consumers based upon the amount of credit they have available. In
 many instances, Defendants have purposefully concealed from consumers these
 communications with the Training Companies.

1 84. In one typical exchange from May 2017, a Nudge employee emailed
 2 Defendant Gantz about a Coaching Program he intended to try to sell to a Seed
 3 customer. In the email, the Nudge employee wrote “we are going to discuss an
 4 investment w/[consumer] this evening after hours[.] [T]he most it would be is
 5 \$29,690. Could we get a breakdown of what cards to use before you guys leave
 6 this eve? Please don’t contact the client about the investment as we have not
 7 discussed it with them yet, thanks.” Gantz forwarded this email to a Seed
 8 employee and instructed her to provide the information. The Seed representative,
 9 in turn, emailed the Nudge salesperson a breakdown of how to charge \$29,700 on
 10 the consumer’s cards: “Chase AARP-15k;” “BOA-4.2k;” and “Discover-10.5k.”

11 85. Communications like this – in which Seed provides its customers’
 12 private credit information to the Training Companies to enable them to pitch
 13 additional trainings or coaching services to the customers – are commonplace for
 14 Defendants.

15 **G. Seed’s Funding Service Impairs Many Consumers’ Credit Scores**

16 86. Seed’s funding service causes substantial and long-lasting declines in
 17 many of its customers’ credit scores. Defendants do not tell their customers about
 18 the likely credit score impact of its service, instead falsely suggesting that
 19 consumers’ credit scores will significantly improve by the end of Seed’s process.

20 87. A consumer’s credit utilization rate is the ratio of the consumer’s
 21 revolving credit balances to his or her revolving credit limits. Credit utilization
 22 rates are one of the primary factors in calculating credit scores. In many instances,
 23 within mere days of Seed obtaining new credit cards for its customers, the Training
 24 Companies charge tens of thousands of dollars to the cards for the cost of their
 25 training programs. This causes a substantial portion of the credit lines to be
 26 immediately exhausted by the cost of these trainings. The substantial charges on
 27 these new credit cards cause the consumers’ credit utilization rates to spike,
 28 leading their credit scores to significantly decline.

88. The negative impact on Seed's customers' credit scores is exacerbated by the fact that most consumers who pay for the Training Companies' trainings and coaching services do not earn substantial additional income through the programs. Even though Seed advises many of its customers to project \$100,000 or more of additional income following the programs, the great majority of consumers do not even recoup what they paid to the Training Companies. Accordingly, many of Seed's customers are unable to timely pay down the large credit card debts associated with the cost of the programs.

89. For these reasons, many of Seed's customers experience substantial and sustained drops in their credit scores from the funding process. In many cases, Seed's customers experience long-term credit score declines of more than 100 points that, in some cases, last years.

90. Seed does not disclose to consumers before they enroll that many customers experience a significant, long-term negative impact on their credit scores as a result of the Seed process. To the contrary, Seed’s website falsely suggests that the only risk from Seed’s funding process is “minimal” and short-term:

Is there any risk or negative impact on me or my company?

There is no risk to you or your company other than the owner will receive inquiries on their personal credit report and those can have a minimal negative impact on the personal credit score for up to 6 months.

91. After enrollment, Seed's representatives continue to downplay the negative credit score impacts from the Seed funding process. For example, in a standard form email to Seed's customers on "Utilization's Effect on Credit," Seed's representatives indicate that in the "short term (0-6 months)," the

1 consumers will experience “temporary stress on your credit score.” However, in
2 the “long term (1 year and beyond)”:

3 Once your overall balances are brought below the 50% utilization
4 mark and you have now demonstrated a year of timely payments on
5 all your new accounts; you can expect a PROFOUND increase to your
6 credit score. You have proven to the banks you are able to effectively
7 manage a large amount of credit and are now a rock star in any
8 lending institution’s eyes! At this stage, we routinely see our clients’
9 credit scores increase dramatically; anywhere from 50-100 points
10 compared to when they first entered our program. As a credit rock
star you can expect to be granted credit (of any kind) at the very best
terms.

11 92. Seed’s statements misleadingly minimize the negative credit score
12 impact from its services and convey the false impression that most consumers can
13 expect to experience an improved credit score. In actuality, many of Seed’s
14 customers experience substantial, lasting credit score declines as a function of
15 loading up their credit cards with the cost of the trainings and their subsequent
16 inability to timely pay down these debts.

17 93. Based on the facts and violations of law alleged in this Complaint, the
18 FTC has reason to believe that Defendants are violating or are about to violate laws
19 enforced by the Commission because, among other things: Defendants engaged in
20 their unlawful acts and practices repeatedly over a period of at least six years;
21 Defendants continued to enable the acts and practices of the Training Companies
22 despite knowledge that many of them were the subject of law enforcement actions
23 predicated on their illegal conduct; and Defendants continued to engage in the
24 conduct at issue in this Complaint after the Defendants learned that the FTC was
25 investigating them.

VIOLATIONS OF THE FTC ACT

94. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

95. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

96. Acts or practices are unfair under Section 5 of the FTC Act if they cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that is not outweighed by countervailing benefits to consumers or competition. 15 U.S.C. § 45(n).

COUNT I

Deceptive Income Claims

97. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of their credit card funding services, Defendants have represented, directly or indirectly, expressly or by implication, that consumers who purchase and use the products and services of the Training Companies are likely to earn substantial income and may include such substantial projected income in applications submitted to credit issuers.

98. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 97, consumers who purchase and use the products and services of the Training Companies are not likely to earn substantial income and may not include such substantial projected income in applications submitted to credit issuers.

99. Therefore, Defendants' representations as set forth in Paragraph 97 are false or misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

Deceptive Coordination with Training Companies

100. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of its credit card funding services, Defendants have represented, directly or indirectly, expressly or by implication, that Defendants (a) will act in the consumers' interest and for their benefit; and (b) will not disclose the consumers' personal information to third parties without the consumers' written authorization.

101. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 100, Defendants have (a) not acted in the interests or for the benefit of consumers, but instead have acted for the benefit of the Training Companies; and (b) disclosed consumers' personal financial information to the Training Companies without the consumers' prior authorization.

102. Therefore, Defendants' representations as set forth in Paragraph 100 are false or misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT III

Deceptive Credit Score Claims

103. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of their credit card funding services, Defendants have represented, directly or indirectly, expressly or by implication, that the only negative impact on consumers' credit scores related to Defendants' services will be minor and short-term.

104. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 103, consumers suffered substantial and long-term negative impacts related to Defendants' services.

105. Therefore, Defendants' representations as set forth in Paragraph 103 are false or misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT IV

Unfair Credit Card Funding Practices

106. In numerous instances, Defendants have obtained credit cards for consumers for the purpose of enabling Training Companies engaged in deceptive practices to place charges on some or all of those cards, including by:

- a. Obtaining credit cards for consumers that are used to pay for the Training Companies' fraudulent programs while allowing the Training Companies to market Defendants' services as a way for consumers to obtain capital to invest in their businesses;
- b. Undermining the underwriting processes of credit issuers so that consumers obtain more credit than they would otherwise obtain, including by causing credit card applications to be submitted on behalf of consumers containing inflated income figures; or
- c. Disclosing consumers' private financial information to the Training Companies without the consumers' knowledge or consent in order to enable the Training Companies to sell additional training and coaching services to consumers.

107. Defendants' actions cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that is not outweighed by countervailing benefits to consumers or competition.

108. Therefore, Defendants' acts or practices as set forth in Paragraph 106
constitute unfair acts or practices in violation of Section 5 of the FTC Act, 15
U.S.C. § 45(a), (n).

VIOLATIONS OF THE TELEMARKETING SALES RULE

109. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. §§ 6101-6108, in 1994. The FTC adopted the original TSR in 1995, extensively amended it in 2003, and amended certain sections thereafter. 16 C.F.R. Part 310.

110. Some of the Training Companies, including Nudge and Zurixx, are “sellers” and “telemarketers” engaged in “telemarketing,” as defined by the TSR, 16 C.F.R. § 310.2(aa), (cc), and (dd).

111. The TSR prohibits sellers and telemarketers from misrepresenting, directly or by implication, any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer. 16 C.F.R. § 310.3(a)(2)(iii).

112. The TSR also prohibits a person from providing substantial assistance or support to any seller or telemarketer when that person “knows or consciously avoids knowing” that the seller or telemarketer is engaged in acts or practices that violate Section 310.3(a). 16 C.F.R. § 310.3(b).

113. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c) and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT V

Assisting and Facilitating Deceptive Telemarketing Acts

114. In numerous instances, Defendants provided substantial assistance or support to Training Companies when Defendants knew, or consciously avoided knowing, that the Training Companies were engaged in acts or practices that violate Sections 310.3(a)(2) of the TSR, as described in Paragraphs 1 through 93 above.

1 115. Therefore, Defendants' acts or practices as set forth in Paragraph 114
 2 violate the TSR, 16 C.F.R. § 310.3(b).

3 **VIOLATIONS OF THE CREDIT REPAIR ORGANIZATIONS ACT**

4 116. CROA took effect on April 1, 1997, and has since that date remained
 5 in full force and effect.

6 117. The purposes of CROA, according to Congress, are “(1) to ensure that
 7 prospective buyers of the services of credit repair organizations are provided with
 8 the information necessary to make an informed decision regarding the purchase of
 9 such services; and (2) to protect the public from unfair or deceptive advertising and
 10 business practices by credit repair organizations.” 15 U.S.C. § 1679(b).

11 118. CROA defines a “credit repair organization” as “any person who uses
 12 any instrumentality of interstate commerce or the mails to sell, provide, or perform
 13 (or represent that such person can or will sell, provide, or perform) any service, in
 14 return for the payment of money or other valuable consideration, for the express or
 15 implied purpose of – (i) improving any consumer’s credit record, credit history, or
 16 credit rating; or (ii) providing advice or assistance to any consumer with regard to
 17 any activity or service described in clause (i).” 15 U.S.C. § 1679a(3).

18 119. Seed is a “credit repair organization.”

19 120. CROA prohibits all persons from “mak[ing] any statement, or
 20 counsel[ing] or advis[ing] any consumer to make any statement, which is untrue or
 21 misleading (or which, upon the exercise of reasonable care, should be known by
 22 the credit repair organization, officer, employee, agent, or other person to be untrue
 23 or misleading) with respect to any consumer’s credit worthiness, credit standing, or
 24 credit capacity” to (A) any consumer reporting agency; or (B) any person who has
 25 extended credit to the consumer or to whom the consumer has applied or is
 26 applying for an extension of credit. 15 U.S.C. § 1679b(a)(1).

27 121. Pursuant to Section 410(b)(1) of CROA, 15 U.S.C. § 1679h(b)(1), any
 28 violation of any requirement or prohibition of CROA constitutes an unfair or

1 deceptive act or practice in commerce in violation of Section 5(a) of the FTC Act,
 2 15 U.S.C. § 45(a). Pursuant to Section 410(b)(2) of CROA, 15 U.S.C.
 3 § 1679h(b)(2), all functions and powers of the FTC under the FTC Act are
 4 available to the FTC to enforce compliance with CROA in the same manner as if
 5 the violation had been a violation of any FTC trade regulation rule.

6 **COUNT VI**

7 ***Causing False Statements to Credit Issuers***

8 122. In numerous instances, in connection with the advertising, marketing,
 9 promotion, offering for sale, or sale of services to consumers by a credit repair
 10 organization, as that term is defined in Section 403(3) of CROA, 15 U.S.C.
 11 § 1679a(3), Defendants have made, or counseled or advised consumers to make,
 12 statements which are untrue or misleading with respect to consumers' credit
 13 worthiness, credit standing, or credit capacity to persons who have extended credit
 14 to the consumers or to whom the consumers have applied or are applying for an
 15 extension of credit, including by causing credit applications to be submitted on
 16 behalf of consumers containing untrue or misleading information about consumers'
 17 incomes.

18 123. Therefore, Defendants' acts or practices as set forth in Paragraph 122
 19 violate Section 404(a)(1) of CROA, 15 U.S.C. § 1679b(a)(1).

20 **VIOLATIONS OF THE CONSUMER REVIEW FAIRNESS ACT OF 2016**

21 124. In 2016, Congress passed the CRFA, P.L. 114-258, 15 U.S.C. § 45b.

22 125. "CRFA" defines "covered communication" as "a written, oral, or
 23 pictorial review, performance assessment of, or other similar analysis of, including
 24 by electronic means, the goods, services, or conduct of a person by an individual
 25 who is party to a form contract with respect to which such person is also a party."
 26 15 U.S.C. § 45b(a)(2).

27 126. The CRFA defines "form contract" to mean "a contract with
 28 standardized terms (i) used by a person in the course of selling or leasing the

1 person's goods or services; and (ii) imposed on an individual without a meaningful
 2 opportunity for such individual to negotiate the standardized terms." 15 U.S.C.
 3 § 45b(a)(3).

4 127. Effective March 14, 2017, the CRFA renders void any provision of a
 5 form contract if such provision prohibits or restricts the ability of an individual
 6 who is a party to the form contract to engage in a covered communication. 15
 7 U.S.C. § 45b(b)(1).

8 128. Effective March 14, 2017, the CRFA prohibits any person from
 9 offering a form contract containing a provision described as void in sub-section (b)
 10 of the CRFA. 15 U.S.C. § 45b(c).

11 129. Pursuant to the CRFA, a violation of sub-section (c) of the CRFA
 12 shall be treated as a violation of a rule defining an unfair or deceptive act or
 13 practice prescribed under Section 18(a)(1)(B) of the FTC Act, 15 U.S.C.
 14 § 57a(a)(1)(b), and the FTC shall enforce the CRFA in the same manner, by the
 15 same means, and with the same jurisdiction, powers, and duties as the FTC Act. 15
 16 U.S.C. § 45b(d). Congress empowered the FTC to enforce the CRFA with respect
 17 to contracts in effect on or after December 14, 2017. 15 U.S.C. § 45b(e).

18 130. Defendants have offered "form contract[s]," as that term is defined in
 19 the CRFA. 15 U.S.C. § 45b(a)(3).

20 **COUNT VII**

21 ***Unlawful Use of Non-Disparagement Provisions***

22 131. In numerous instances on or after December 14, 2017, Defendants
 23 have offered form contracts containing provisions that prohibit or restrict the
 24 ability of an individual who is a party to the form contract to engage in a covered
 25 communication.

26 132. Defendants have thereby violated the CRFA, 15 U.S.C. § 45b(c).

CONSUMER INJURY

133. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act, the TSR, CROA, and the CRFA. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

134. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

135. Section 19 of the FTC Act, 15 U.S.C. § 57b, Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), Section 410(b) of CROA, 15 U.S.C. § 1679h(b), and the CRFA, 15 U.S.C. § 45b(d), authorize this Court to grant such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the TSR, CROA, and the CRFA, including the rescission or reformation of contracts and the refund of money.

PRAYER FOR RELIEF

136. Wherefore, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the
FTC Act, 15 U.S.C. §§ 53(b) and 57b, Section 6(b) of the Telemarketing Act, 15
U.S.C. § 6105(b), Section 410(b) of CROA, 15 U.S.C. § 1679h(b), the CRFA, 15
U.S.C. § 45b(d), and the Court's own equitable powers, requests that the Court:

A. Enter a permanent injunction to prevent future violations of the FTC Act, the TSR, CROA, and the CRFA by Defendants;

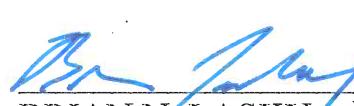
1 B. Award such relief as the Court finds necessary to redress injury to
2 consumers resulting from Defendants' violations of the FTC Act, the TSR, CROA,
3 and the CRFA, including rescission or reformation of contracts, restitution, the
4 refund of monies paid, and the disgorgement of ill-gotten monies; and

5 C. Award Plaintiff the costs of bringing this action, as well as such other
6 and additional relief as the Court may determine to be just and proper.

7
8 Respectfully submitted,

9
10 JAMES REILLY DOLAN
11 Acting General Counsel

12 Dated: January 29, 2021



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